

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Federal-State Joint Board)	
On Universal Service)	CC Docket No. 96-45
)	
NPCR, Inc. d/b/a Nextel Partners)	DA 04-998
)	
Petition for Designation as)	
Eligible Telecommunications Carriers)	
in the State of Alabama)	

**REPLY COMMENTS OF THE
ALABAMA RURAL LOCAL EXCHANGE CARRIERS**

The Alabama Rural Local Exchange Carriers ("Alabama Rural LECs")¹ hereby submit these Reply Comments in response to the Commission's Public Notice² on the above referenced petition by NPCR, Inc. d/b/a Nextel Partners ("Nextel") for designation as an eligible telecommunications carrier ("ETC") throughout the state of Alabama (the "*Nextel Petition*" or "*Petition*").³ The purpose of these Reply Comments is to express specific concurrence with the concerns and positions expressed in the Comments of TDS Telecommunications Corp. ("TDS Telecom") and CenturyTel, Inc. ("CenturyTel"), both filed May 7, 2004.

¹ The Alabama Rural LECs are defined to include the following companies: Ardmore Telephone Company, Blountsville Telephone Company, Brindlee Mountain Telephone Company, Inc., Butler Telephone Company, Inc. (a subsidiary of TDS Telecom), Castleberry Telephone Company, Inc., Frontier Communications of Alabama, Inc., Frontier Communications of Lamar County, Inc., Frontier Communications of the South, Inc., Graceba Total Communications, Inc., GTC, Inc., Gulf Telephone Company, Hayneville Telephone Company, Inc., Hopper Telecommunications Company, Inc., Interstate Telephone Company, Millry Telephone Company, Inc., Mon-Cre Telephone Cooperative, Inc., Moundville Telephone Company, Inc., National Telephone Company, Inc., New Hope Telephone Cooperative, Inc., Oakman Telephone Company (a subsidiary of TDS Telecom), OTELCO Telephone LLC, Peoples Telephone Company (a subsidiary of TDS Telecom), Ragland Telephone Company, Roanoke Telephone Company, Inc., Union Springs Telephone Company, Inc. and Valley Telephone Company.

² *Parties Are Invited to Comment on the Supplemented Petitions for Eligible Telecommunications Carrier Designations*, DA-04-998, Public Notice (rel. April 12, 2004) ("*Public Notice*").

³ The Alabama Rural LECs affected by the *Nextel Petition* (or Supplement) did not receive copies of the same when it was originally filed.

As recognized by TDS Telecom, until the Commission has resolved the outstanding ETC designation issues raised in the pending Recommended Decision of the Federal-State Joint Board on Universal Service (“Joint Board”)⁴, the Commission should not consider the *Nextel Petition*.⁵ While the Joint Board *Recommended Decision* notes that ETC designations in areas served by rural carriers are entitled to “rigorous review”⁶, the Commission has not yet acted on the Joint Board’s recommendations, leaving important ETC designation issues unresolved.

The Alabama Rural LECs further agree with TDS Telecom that *Virginia Cellular*⁷ fails to address a pivotal issue⁸ articulated by the Alabama Rural LECs in other ETC proceedings: the sustainability of the USF where multiple providers, with overlapping territories, apply for ETC status in rural areas.⁹ Finding “that grant of *this ETC designation* will not dramatically burden the universal service fund,” the Commission did not address this issue of “overall impact” of ETC designations on the Fund in *Virginia Cellular*.¹⁰ Instead, the Commission in *Virginia*

⁴ Recommended Decision, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of The Commission’s Rules Relating to High-Cost Universal Support and The ETC Designation Process*, CC Docket No. 96-45, FCC 04J-1 (rel. Feb. 27, 2004) (“*Recommended Decision*”).

⁵ Comments of TDS Telecom at p. 2 (May 7, 2004) (“*TDS Comments*”).

⁶ See *Recommended Decision* at ¶ 17.

⁷ *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338 (rel. Jan. 22, 2004) (“*Virginia Cellular*”).

⁸ TDS Comments at p. 3 (stating that “Virginia Cellular did not set out a ‘framework’ for evaluating an issue the Commission found was not implicated in these petitions: the burden on the USF created by the rapid growth in high-cost support distributed to competitive ETCs”) citation omitted.

⁹ See e.g., CC Docket 96-45, Application for Review of the Alabama Rural LECs, *Cellular South License, Inc., Petition for Designation as an Eligible Telecommunications Carrier throughout its Licensed Service Area in the State of Alabama*, (December 30, 2002) (“*CellSouth Application for Review*”) at p. 14-16; Application for Review of the Alabama Rural LECs, *RCC Holdings, Inc., Petition for Designation as an Eligible Telecommunications Carrier throughout its Licensed Service Area in the State of Alabama*, (December 23, 2002) (“*RCC Application for Review*”) at p.14-16.

¹⁰ See *Virginia Cellular* at ¶ 31 (emphasis added).

Cellular stated, “it is our hope that the Commission’s pending rulemaking proceeding also will provide a framework for assessing the *overall impact* of competitive ETC designations on the universal service mechanisms.”¹¹

The Alabama Rural LECs agree with TDS that “[g]iven the issue left open in *Virginia Cellular* and *Highland Cellular*¹², it is not appropriate for the Commission to evaluate *all* pending ETC petitions under the public interest standard set forth in *Virginia Cellular*.”¹³ The *Nextel Petition* implicates issues quite unlike those addressed by the Commission in *Virginia Cellular* and *Highland Cellular*. If the *Nextel Petition* were granted after being reviewed in isolation from the remaining Alabama ETC petitions (pending or granted), at least one rural carrier in the state would face as many as five competitive ETCs (“CETC”s) operating in its service area, others two, three or four.¹⁴ Accordingly, as asserted by TDS Telecom, the Commission cannot properly assess the *Nextel Petition* until remaining ETC issues have been resolved and the Commission has finalized “a framework for assessing the overall impact of competitive ETC designations on the universal service mechanisms.”¹⁵

As noted, there are five other Alabama ETC designation proceedings pending (or already granted) with the Commission, all affecting the Alabama Rural LECs.¹⁶ Two of those ETC

¹¹ *Id.* (emphasis added).

¹² *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 04-37 (rel. April 12, 2004) (“*Highland Cellular*”).

¹³ TDS Comments at p. 4.

¹⁴ See *infra*, footnote numbered 16 and p. 4.

¹⁵ See *Virginia Cellular* at ¶ 31.

¹⁶ *ALLTEL Communications, Inc.* (“ALLTEL”) *Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, (April 14, 2003) (“ALLTEL Petition”); *AT&T Wireless Services, Inc.* (“AT&T Wireless”) *Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, (Dec. 31, 2003) (“AT&T Wireless Petition”) as supplemented (May 11, 2004); *Cellular South Petition for Designation as an Eligible* Reply Comments of the Alabama Rural LECs
May 14, 2004

designation petitions involve other large CMRS providers – ALLTEL and AT&T Wireless. If, in addition to the *Nextel Petition*, each of those petitions were granted and combined with the remaining three, the resulting CETCs in Alabama could draw millions of dollars annually from the USF.¹⁷ When viewed in this overall context, not only must the *Nextel Petition* be denied, but a suspension of any further ETC grants in Alabama is also mandated, pending resolution of the issues outlined in the *Recommended Decision*.

Of the Alabama Rural LECs, the following have at least two potential competitive ETCs in some or all of their service areas: Graceba Total Communications, Inc., GTC, Inc., Moundville Telephone Company, Inc., and Union Springs Telephone Company, Inc..¹⁸ These carriers have three or four: Castleberry Telephone Company, Inc., Frontier of Alabama, Inc., Frontier of Lamar County, Inc., Frontier of the South, Inc., Gulf Telephone Company, Inc., Hayneville Telephone Company, Inc., Millry Telephone Company, Inc. and Mon-Cre Telephone Cooperative, Inc.¹⁹ Finally, Butler Telephone Company, Inc. has five.²⁰ “Where the economies of scale in a study area do not support multiple competitive entrants, a petitioner for ETC

Telecommunications Carrier throughout its Licensed Service Area in the State of Alabama, Memorandum Opinion and Order, 17 FCC Rcd 24393 (“*CellSouth Petition*” or “*CellSouth Order*”) *Corr Wireless Communications, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, (May 13, 2003) (“*Corr Petition*”); and, *RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier throughout its Licensed Service Area in the State of Alabama*, Memorandum Opinion and Order, 17 FCC Rcd 23532 (“*RCC Petition*” or “*RCC Order*”).

¹⁷ Nextel alone expects to draw approximately \$700,000 annually from the USF based on its Alabama petition. See Nextel’s Alabama Supplement to *Nextel Petition* at p. 5, footnote numbered 14 (Mar. 24, 2004). Conservatively estimating that AT&T Wireless and ALLTEL combined will draw another \$1M from the Fund as a result of their Alabama filings and then adding three more Alabama ETCs to the pool, annual draws of over \$2M from the Fund for the state of Alabama alone would be virtually assured.

¹⁸ These numbers have been compiled by reviewing the *Nextel Petition*, *AT&T Wireless Petition*, *ALLTEL Petition*, *CellSouth Petition*, *Corr Petition* and *RCC Petition*.

¹⁹ *Id.*

²⁰ *Id.*

designation should face a particularly high public interest hurdle before the Commission can grant an additional CETC designation.”²¹

Simply, the *Nextel Petition*, if combined with other petitions for ETC designation (pending or granted) *in Alabama*, will have significant impact on the Universal Service Fund (“USF”). The Alabama Rural LECs agree that until the Commission develops “a framework for evaluating – and mitigating – that impact”²² it must not grant the *Nextel Petition* or other pending petitions in Alabama and that it must set aside any previously granted Alabama ETC Petitions.

Finally, Nextel has only minimally supplemented its *Petition*.²³ The Alabama Rural LECs agree with both TDS Telecom and CenturyTel that as such it fails to meet the heightened public interest requirements of *Virginia Cellular*.²⁴ This public interest analysis for rural areas requires consideration of whether the benefits to be gained by the ETC designation outweigh any potential harm, a fact-specific exercise.²⁵ Nextel’s additional filing simply does not “weigh numerous factors, including the benefits of increased competitive choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the competitor’s service offering, any commitments made regarding quality of telephone service provided by competing providers, and the competitive ETC’s ability to provide the supported services throughout the designated service area within a reasonable time frame.”²⁶

²¹ TDS Comments at p. 10.

²² *Id.*

²³ See TDS Comments at 7-10 (noting, Nextel’s continued reliance on the presumptive benefits of competition with remaining deficiencies in commitments to residential service, E-911 service, local usage plans with ranging prices and large numbers of minutes, service to sparsely populated areas and advertising); CenturyTel Comments at 2- 3 (noting, the Supplement only adds a “handful of non-binding commitments”).

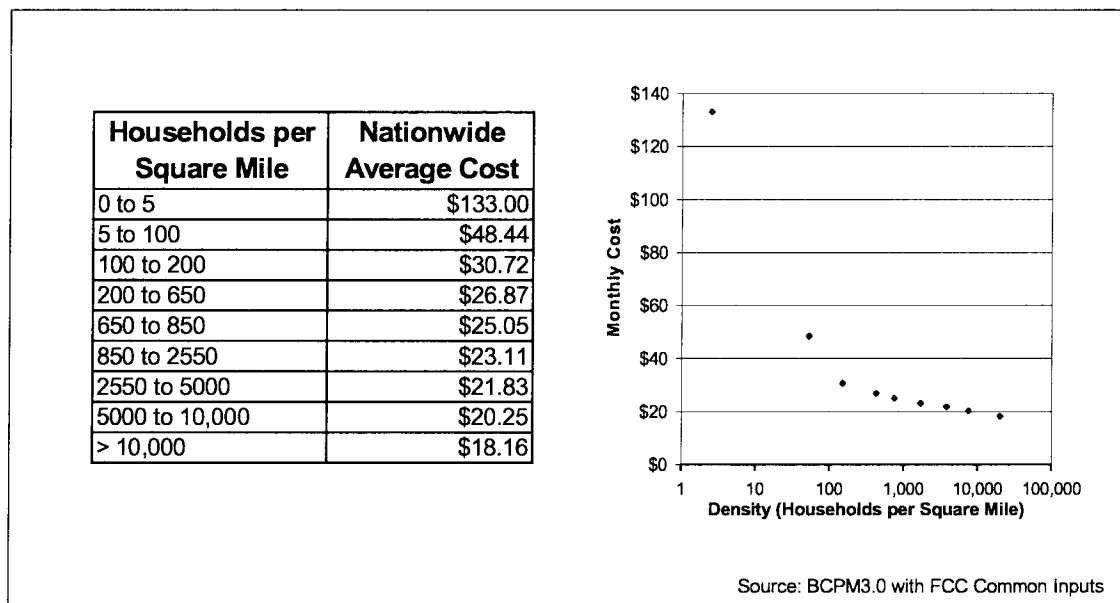
²⁴ TDS Comments at p. 7-10; CenturyTel Comments at p. 2-3.

²⁵ *Virginia Cellular* at ¶ 28; *see also Highland Cellular* at ¶ 22.

²⁶ *Id.*

Where, as here, multiple designations are a critical part of the public interest analysis, Nextel's failure to address their impact dooms Nextel's claim that the public interest would be served by grant of the petition. There are very real costs associated with introducing multiple carriers in sparsely populated areas such as the ones affected by the *Nextel Petition*; these costs must be weighed in the public interest analysis.

The cost of building and maintaining a public telephone network is extremely sensitive to the density of the serving area. The following publicly available data taken from the Commission's proxy model proceeding clearly illustrates the relationship of density and cost²⁷:



This chart shows the nationwide average monthly cost of providing basic telephone service in each of the 9 density zones identified by the Commission. What is clear from this data is that costs increase gradually with decreasing population density until around 100 households

²⁷ The data is taken from the BCPM 3.0 with FCC Common Inputs. The BCPM is the only model with publicly available data for all rural and non-rural study areas. Other proxy models show a similar relationship of density to cost.

per square mile. Below this level, costs increase geometrically as subscriber density decreases.²⁸

When two or more ETCs serve the same territory, the average subscriber density for each will be less than if a single company served the same territory. This will have the impact of significantly increasing the average cost of serving all subscribers. The impact of this increase will be more dramatic where a high percentage of lines in the study area are in the two lowest density/highest cost zones. The following data clearly shows that four of the rural Alabama carriers within the scope of Nextel's designated service area have a significant majority of their customers located in these lowest two density zones:

Household Density²⁹

Study Area Name	Loops	% 0 to 5 HH/sq mile	% 5 to 100 HH/sq mile	% over 100 HH/sq mile	Average Study Area Density (HH/sq mi)
Butler Telephone Company	8,771	9.5%	61.5%	29.0%	10.2
Castleberry Telephone Company	1,010	8.8%	61.5%	29.7%	9.8
Frontier Communications – AL	14,341	13.0%	46.5%	40.5%	8.8
Millry Telephone Company	7,127	17.5%	71.5%	11.0%	6.8

The potential reduction in subscriber density and increased per-subscriber costs resulting from the designation of CETCs must be considered in the cost/benefit analysis the Commission conducts in determining whether approving an additional CETC would serve the public interest.

Where there may be two, three, four or five CETCs, this calculus is critical.

²⁸ See also CC Docket 96-45, *CellSouth Petition* and *RCC Petition*, Alabama Rural LECs *ex partes* (Sept. 5 and Oct. 2002).

²⁹ Source: 2000 Census – Density at the Census Block Level.

Reply Comments of the Alabama Rural LECs

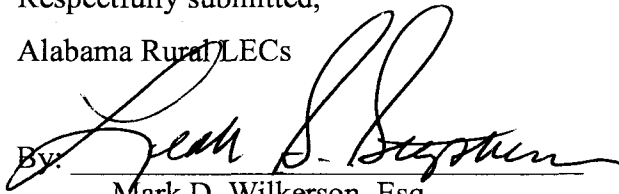
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CONCLUSION

Because the supplemented *Nextel Petition*, when viewed in the context of the complete ETC picture in Alabama (and the aggregate Nextel ETC picture), would have a significant *overall* impact on the Universal Service Fund, the Commission should not consider the Petition until the Commission has developed a framework for analyzing and mitigating the overall impact on the Fund from increasing support payments to competitive ETCs. If the Commission, however, considers the Nextel Petition, it should deny the Petition for failure to meet public interest requirements for ETC designation. High-quality telecommunications service, on a universal basis, is already being provided to rural telephone customers in the certificated service territories of all of the Alabama Rural LECs. Absent any demonstration and proof that the benefits of having multiple ETCs and “competition” in sparsely populated rural areas exceeds the costs, then *Nextel’s Petition* cannot be found to be in the public interest.

Respectfully submitted,

Alabama Rural LECs

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May 14, 2004

CERTIFICATE OF SERVICE

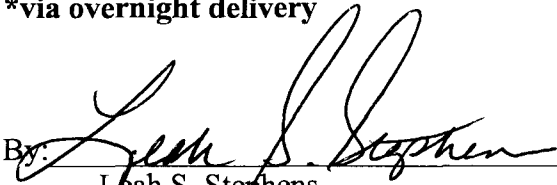
I, Leah S. Stephens, hereby certify that on this 14th day of May, 2004, a true and correct copy of the above and foregoing REPLY COMMENTS OF THE ALABAMA RURAL LOCAL EXCHANGE CARRIERS, unless otherwise designated, have been forwarded by U.S. Mail, first class, postage prepaid and properly addressed to:

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